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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,017	07/14/2003	Stephen C. Thatcher	10,220	8801

7590 03/24/2005

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PO Box 30069
Kansas City, MO 64112

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,017

Applicant(s)

THATCHER ET AL

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 20-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1, 12 are objected to because of the following informalities: since "at least one rear wheel" recited in ¶ a, in ¶ b "rear wheels" should be – at least one rear wheel – (claim 1); "said position stop" should be – a position stop – (cl. 12). Appropriate correction is required.

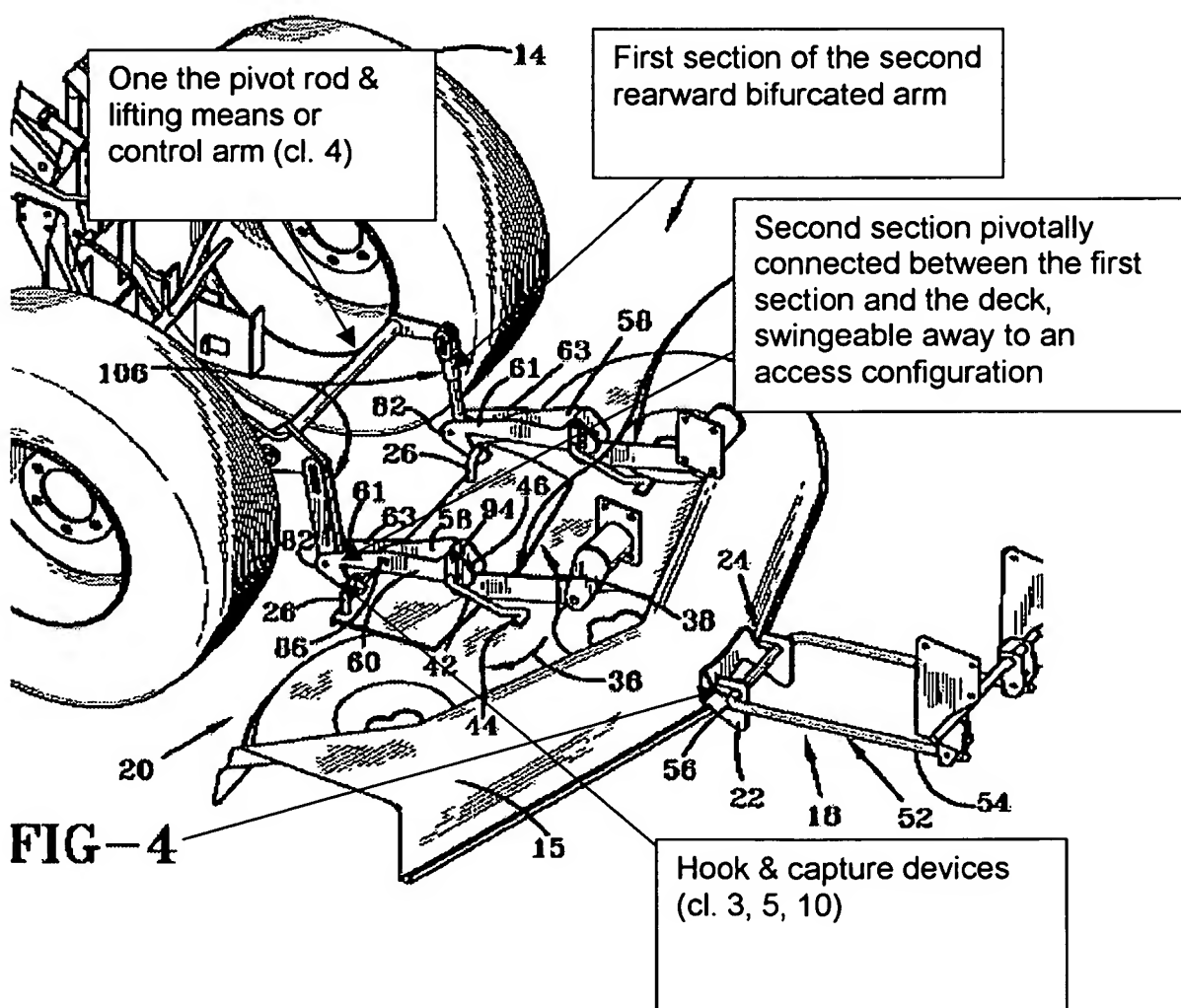
Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16, 20-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Plas et al (6293077).

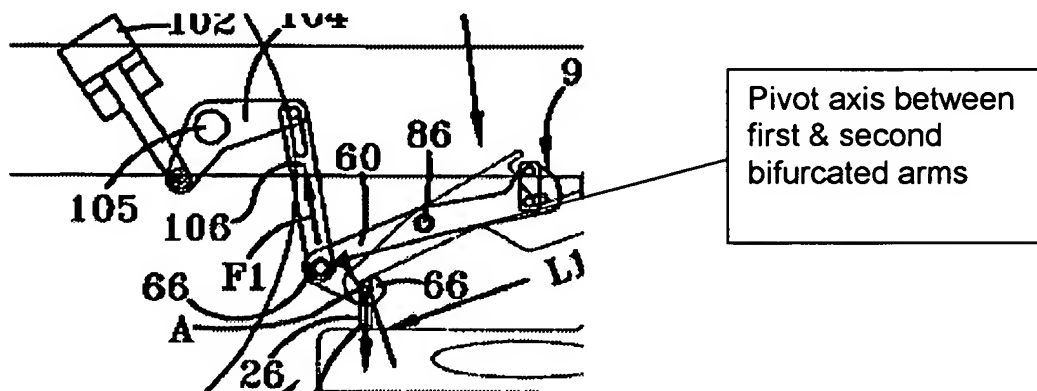


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in re claim 1:

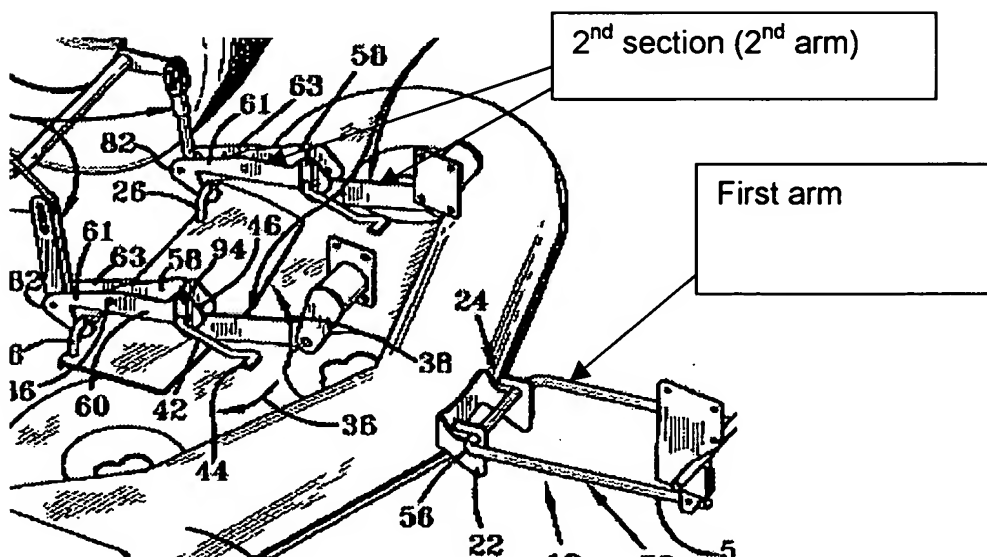
the first section of the bifurcated arm (fig 4, ref 106) pivotally mounted on said frame (fig 2, ref 12);

the first & second sections are pivotally connected (106 & 58 pivot as shown bellow):



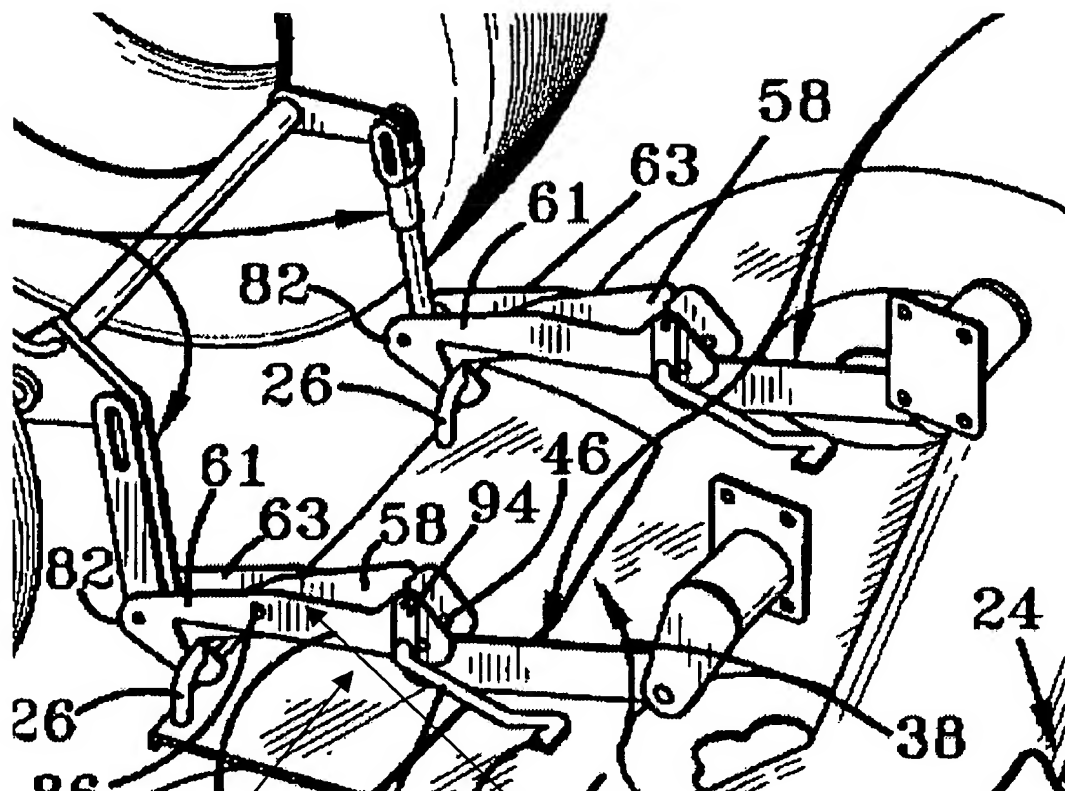
in re claim 2:

the arms form a generally parallelogram configuration (see fig 2), also:



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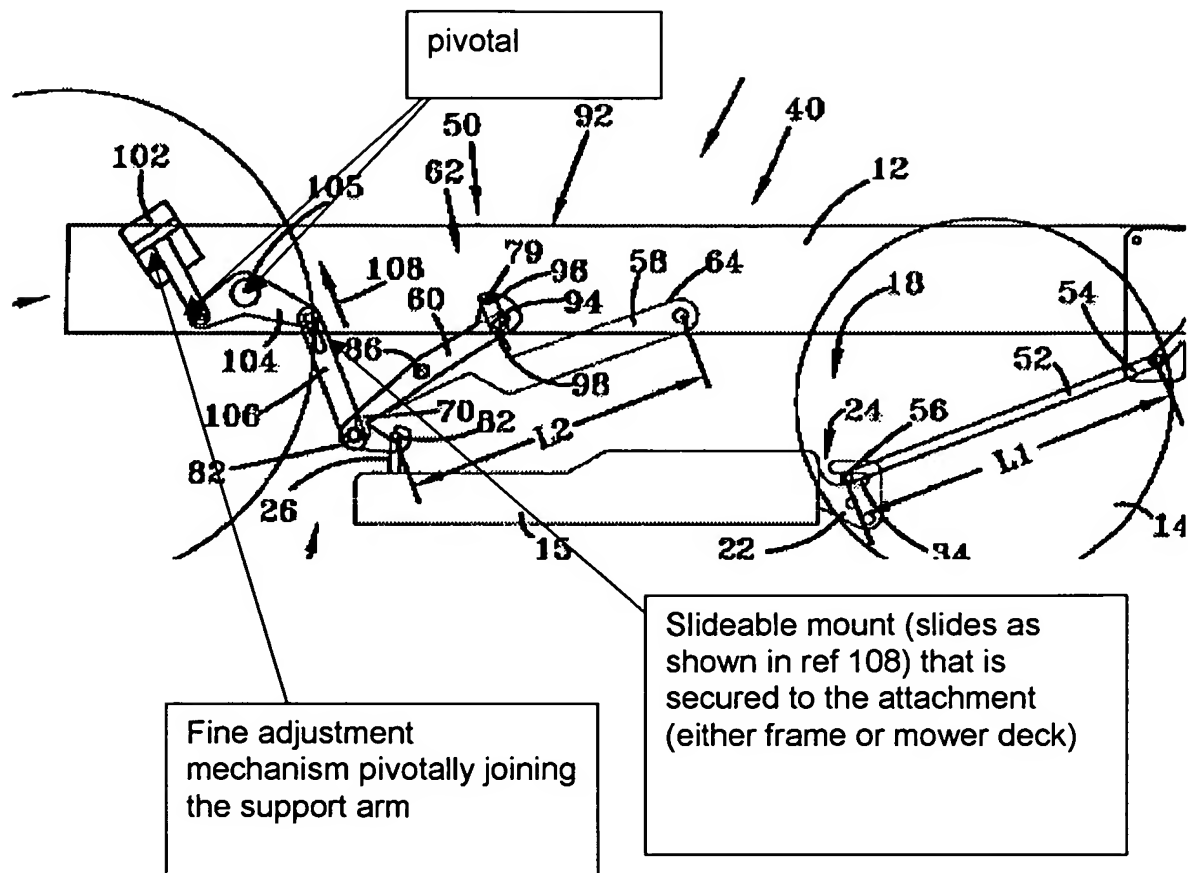
in re claims 6, 10, 12:



Stop includes a pin

Stop arm

in re claims 8, 20:



Claim Rejections - 35 USC § 103

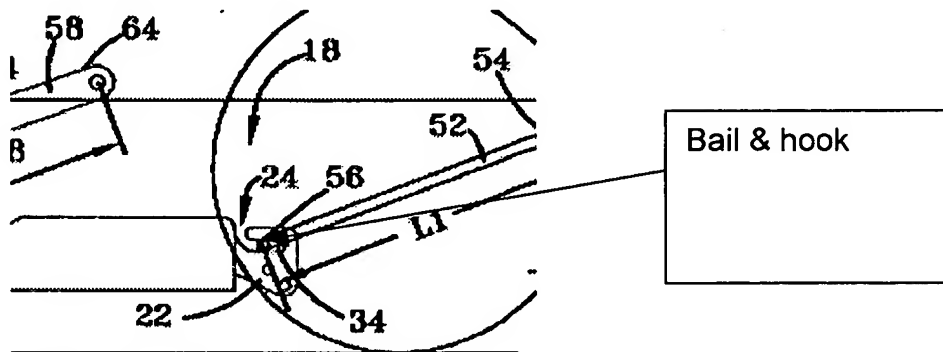
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plas et al (6293077) or Schmidt (5956932).

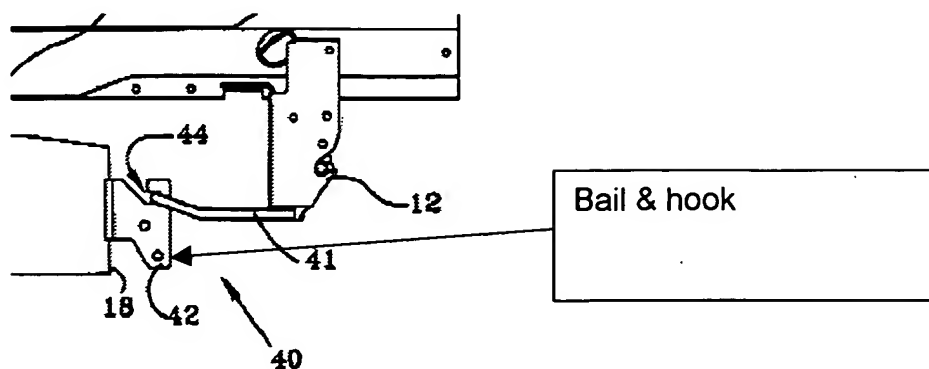
Plas or Schmidt prior art discloses the claimed invention except for arranging the hook & bail in reverse order (cl. 28).

Plas shows the bail/hook arrangement:



Schmidt shows the bail/hook arrangement:

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the hook & bail reversely as claimed, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Response to Arguments

5. Applicant's election of claims 1-16, 20-28 in the reply filed on 7/7/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Heretofore, the restriction deemed **final**.

This application contains claims 17-19 drawn to an invention nonelected. A complete reply to the rejection must include cancellation of nonelected claims.

Applicant's arguments with respect to claims 1-16, 20-28 have been considered but are moot in view of the new ground(s) of rejection. It is noted that the Application cannot be allowed with claims in "withdrawn" status.

Applicant's argument in re claim 1:

the "first section ... abuts against the frame," although, the Examiner disagrees with Applicant's contention, however, aforementioned phrase is not found in claim 1, instead the following phrase is recited & met by Plas as shown in detailed rejection above: "the first section of the bifurcated arm pivotally mounted on said frame."

Applicant's argument that the functional/intended use statement is not capable with Pas' bifurcated arm is not agreed with, since as shown in the above detailed rejection there is at least one pivot location enabling the aforementioned function.

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In re rest of "carte blanche" statement regarding claim 1:

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

In re claim 2:

It is unclear how the "generally parallelogram configuration" is not met by Plas. The Examiner further detailed above in the hopes of reinforcing earlier Examiner's earlier rejection.

In re regarding claim 3-8, applicant did not provide any specifics and arguments how Plas would not meet the claimed structural features, therefore:

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

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Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

In re claim 9:

Applicant appears to argue that a "height adjust mechanism" that "operates in conjunction with the support structure" (assuming that this referring to claim 1 "support structure").

In re the rest of the arguments, the Applicant states "Claim 1 calls for ...," it is unclear if the Applicant intends to argue claim 1 or claim 9.

In re claims 10-16:

Applicant appears to argue that claims 10-16 include a structure not shown by Plas, namely a stop pin, however only claim 12 recites: "stop arm ... position stop includes a pin" which is met by Plas as further detailed above.

In re claims 20-27:

Applicant refers to Applicant's figure to point to referenced structures not shown, however the claim language of claims 20-27 should be pointed out which differ from Plas, which is shown in greater detail above. It is noted that some of the basic structure already provided for in re earlier claims.

In re claim 28, as now amended:

Examiner reviewed Applicant's amendment, however did not find that it would overcome Plas and/or Schmidt, since the deck is pivotally joined to the frame, and the functional/intended use statement is capable to be performed by either Plas or Schmidt, i.e. the "to allow said deck to pivot and rotate ... relative to said frame." The bail & hook arrangement of Plas & Schmidt is for unhooking the mower, and it does not require complete disassembly as argued by the Applicant.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK